IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.220 OF 2005

IN

ARBITRATION PETITION NO.143 OF 2004

Tata Finance Ltd. ... Petitioners

v/s

GSL India Ltd. ... Respondents

Mr D.S. Purandare i/b M/s Kartikeya and Associates for Petitioners.
Mr R. Narulla i/b Mr A.M. Sarogi for Respondents.
Mr Kadam, 2nd Assistant Court Receiver present.

CORAM : D.K.DESHMUKH J.

DATE : 8TH FEBRUARY 2005

P.C.: -

1. By consent of parties, notice of motion is disposed off in following terms :-

1) The respondent - GSL India Ltd. shall pay to the petitioner - Tata Finance Ltd. an amount of Rs.15,37,000/- within a period of six weeks from today. After receiving the amount, within one week thereafter, the ;petitioners shall file an affidavit stating that they have received the aforesaid amount. The said amount is to be paid by the respondents to the petitioners towards the value of the machinery which is subject matter of the order dated 30th August 2004 passed in arbitration petition No.143 of 2004. On such affidavit being filed, the present notice of motion shall stand granted in terms of prayer clause (a) excluding the bracketed portion and arbitration petition No.143 of 2004 shall also stand disposed off. The Court Receiver appointed by order dated 30th August 2004 shall stand

discharged subject to costs and charges of the Court Receiver.

2) The amount to be paid by the respondents to the petitioners can be adjusted by the petitioners towards the recovery to which they are entitled against the order in arbitration proceeding No.160 of 1997 and award dated 10th August 1999. The petitioners shall be free to take up execution proceedings for recovery of balance amount of the award if any.

3) In case the respondents pay the amount to the petitioners and the petitioners do not file affidavit within a period of one week of the expiry of the period of six weeks, the respondents may file an affidavit alongwith the documents which will conclusively show that payment as agreed has been made. On such affidavit being filed, the same consequences as indicated above shall ensue.

4) In case the respondents fail to make the payment as directed above, the Office shall treat this notice of motion as

rejected. In that event, the petitioners shall be entitled to implement the order passed in arbitration petition No.143 of 2004. However, for a period of six weeks from today, the order passed in arbitration petition No.143 of 2004 dated 30th August 2004 shall remain stayed. However, the respondents are restrained from transferring, alienating, creating third party rights or parting with possession of the machinery which is subject matter of the order dated 30th August 2004.

. Notice of motion is disposed off.

. Parties to act on the copy of this order duly authenticated by the Associate / Personal Secretary as true copy.

. Certified copy expedited.